



**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, September 14, 2022**

Meeting Minutes

Committee Members Present

Chi Elder, Chair
Bertha Sanchez Hayden, Vice Chair
Wendy Hatch
James Moore
Denise Nelesen

Department of Consumer Affairs (DCA) Staff Present

Rebecca May, Bureau Chief
Angela Cuadra, Bureau Program Analyst
Helen Geoffroy, DCA Legal Counsel

- 1) Call to Order – Ms. Elder called the meeting to order at 10:01 a.m. and stated the meeting was being held via WebEx with no physical public locations pursuant to Government Code section 11133.
- 2) Roll Call & Establishment of Quorum –
Ms. Cuadra called roll. Committee members: Ms. Elder, Ms. Sanchez Hayden, Ms. Hatch, and Mr. Moore were present via WebEx. Ms. Ichikawa and Ms. Nelesen were not present. A quorum was established with four members present. Ms. Nelesen joined the meeting during agenda item #4.
- 3) Advisory Committee, Bureau Chief, Staff and Legal Counsel Introductions – Committee members, Bureau staff, and legal counsel introduced themselves.
- 4) Public Comment on Items Not on the Agenda –

Ms. Hatch noted that Ms. Nelesen had joined the meeting and suggested the Committee revise the roll call and quorum count accordingly.

Ms. Nelesen greeted the Committee and introduced herself.

Public Comment: None.
- 5) Reading of the Professional Fiduciaries Bureau Mission Statement –

Ms. May read the Bureau's mission statement.

Public Comment: None.

6) Discussion and Possible Approval of the Advisory Committee Meeting Minutes from March 9, 2022 –

Ms. Hatch noted the incorrect date list listed in the minutes for the SacFast outreach event. Ms. May said the date would be corrected. Mr. Moore noted that the correct date for the event was January 12, 2022. Ms. Hatch motioned to approve the minutes with the corrected date. Ms. Nelesen seconded the motion. A vote by roll call was made: Ms. Elder, Ms. Sanchez Hayden, Ms. Hatch, Mr. Moore, and Ms. Nelesen were in favor. There was no discussion from the committee members and the motion carried with six votes. Ms. Cuadra stated the minutes would be posted to the website as amended.

Public Comment: None.

7) Update from the Director's Office –

Mr. Gregory Pruden, Legislative Manager, Division of Legislative Affairs, stated the Governor signed SB 189 on June 30, 2022, which re-institutes remote meetings through July 31, 2023, and boards and bureaus are encouraged to use Webex to allow public participation. Mr. Pruden also updated the committee on current Covid safety protocols. He stated that the Enlightened Licensing Project report was distributed to all boards and bureaus on May 13, 2022 and next the Department will focus on a review of enforcement processes. Mr. Pruden stated the Department held a brown bag luncheon on July 5, 2022 to introduce changes to the regulation process and on August 10, 2022 to review best practices, content examples and security related to social media. He also provided that the Department is updating its workforce and succession planning to align with the Department's new strategic plan. Mr. Pruden announced recent appointments within the Department.

Public Comment: None.

8) Budget Report –

Ms. Harmony DeFilippo, Budget Analyst, presented the budget projection report and fund condition for the Bureau and explained the structural imbalance the Bureau is facing.

Ms. Hatch asked if the process to correct the imbalance through the regulatory process had already begun. Ms. May stated the process to raise fees is slow-going, that the Bureau has first secured spending authority through a budget change proposal (BCP) in this year's budget act and is now working with the Department to determine the new fee amounts. Ms. May noted that fee increases will occur through the regulatory process

which will take 18-24 months and that the Bureau will notify the public through its interested parties list when the regulation has been filed with the Office of Administrative Law and the public will have an opportunity to comment about the regulation. Ms. May also stated that the Bureau is almost done with a retired/inactive regulation which may impact the Bureau's revenues, making it prudent to wait to have that information so that an accurate fee amount can be determined. Ms. Hatch asked if the Bureau can increase its budget and dip into its excess funds in the state treasury instead of increasing fees and Ms. May replied that the Bureau is fully funded by licensing fees and does not draw from the General Fund. Ms. Hatch stated that if the Bureau is solely funded by licensing and renewal fees, the profession will suffer because new applicants will not be able to afford to apply and current licensees will be encouraged to retire. Ms. May stated she shared Ms. Hatch's concerns and though she cannot predict the full impact of a fee increase, regardless the bureau is mandated to implement new statutory requirements and to find the revenue to do so.

Ms. Nelesen agreed with Ms. Hatch and stated that new legislation should be drafted to provide the Bureau with a new revenue source. Ms. May stated the Bureau is working with the Department to think outside of the box for possible solutions. Ms. May further stated that revenues reflect the small licensing pool and that staff are trying to be deliberate in creating an accurate fee amount, while working within the constraints the Bureau is under.

Ms. Elder shared the same concerns as the other members and stated that she understands that AB 1194 must be implemented and that the only revenue source is licensing fees. She appreciates the three options provided by the budget office to remedy the structural imbalance and asked the budget office to look into the feasibility of a tiered fee schedule in which the Bureau would pay a reduced fee to the Attorney General's office for any cases related to AB 1194. Ms. Elder also stated that passing the full price increase to licensees will create barriers into the profession and encourage current licensees to retire.

Public Comment: Mr. Jerry Desmond commented on behalf of the Professional Fiduciaries Association of California (PFAC) stating that PFAC shares the concerns regarding the structural imbalance and believes fee increases would be a barrier to entry to the profession and supports investigating alternatives. He suggested changing the law to include other professions who are performing duties which require licensure in order to increase the number of licensees.

9) Legislative Update and Discussion –

Mr. Daryl Holloway, DCA Legislative Analyst, reviewed the legislative calendar and status of bills listed on the agenda.

Ms. Hatch asked Mr. Holloway to clarify whether the text of pending legislation is subject to change while in “engrossing and enrollment.” Mr. Holloway confirmed that the engrossing and enrollment process is only related to proofreading and organizing the legislation for presentation to the Governor and there would be no further edits to the text. Ms. Hatch asked if AB 1663 would include private or professional fiduciaries and if it included limited or LPS conservatorships or probate conservatorships. She also asked what liability the “supporter” in this bill would be subject to in their support of a disabled person. Lastly, she asked if Judicial Council knew and understood they would be required to form policies and procedures related to this bill and asked who would monitor and review the forms. Mr. Holloway indicated that he did not have answers to her questions currently but would look into it. Ms. Hatch also asked about the Judicial Council’s responsibility to implement SB 1024, and who would determine if Judicial Council had implemented the bill. Ms. Hatch stated she would like for Mr. Holloway to provide a response at the next meeting and thanked him for his presentation.

Public Comment: None.

10)Bureau Updates –

- Application Licensing and Enforcement Statistics – Ms. May presented licensing and enforcement statistics for fiscal year 2022. Ms. Hatch thanked the Bureau for their work.
- Outreach Events – Ms. May noted that Bureau staff did not attend any outreach events since the last meeting and asked meeting attendees to notify the Bureau via email of any outreach events Bureau staff should attend.
- E-Newsletter – Ms. May stated that the newsletter is the best way outside of the Advisory Committee meetings for the Bureau to disseminate important information. She noted that the next newsletter would be distributed in December and if meeting attendees have suggested items for the newsletter, to please reach out to the Bureau with their suggestions.
- Strategic Plan –Ms. May stated that the Bureau is currently undergoing the strategic planning process, and that the new strategic plan will cover 2023 to 2027. She thanked the Advisory Committee members for providing their input on the current strategic plan and for collaborating with Department staff on the new plan. Ms. May also thanked the public for providing feedback via the Bureau’s online survey. She said she anticipated the new strategic plan will wrap up in the late fall, and once ready will be made public and posted to the Bureau’s website.
- Sunset Review – Ms. May provided an update regarding the general sunset review process, and that the Bureau would be undergoing sunset review next year. She

stated sunset review gives the Legislature the opportunity to determine if the Bureau is meeting its consumer protection mandate and if the sunset date should be extended. She further stated that the Bureau's report to the Legislature is due in January and will be made public at that time, and that the Legislature will hold a hearing regarding the Bureau in the Spring. Ms. May anticipates that after the hearing, one of the legislative committees will author a bill to extend the bureau's sunset for four years and make any other statutory changes it deems necessary.

- Subject Matter Experts – Ms. May stated the Bureau is recruiting subject matter experts to assist in complex enforcement cases. Ms. May provided the minimum qualifications for being a SME and stated that SMEs earn \$75 an hour for reviewing cases and drafting corresponding reports and \$90 an hour for providing expert testimony at an administrative hearing. She asked licensees to apply or to encourage other licensees to apply by contacting the Bureau via email.

Ms. Hatch asked if the Bureau would consider using retired fiduciaries as SMEs as they would not have any potential conflicts of interest. Ms. May responded that current SMEs are all actively licensed because the Bureau has not yet started providing retired licenses. She thanked Ms. Hatch for the suggestion and said the Bureau will look into it further when retired licenses are available.

Ms. Elder asked if information about applying to be a SME is on the Bureau's website and if there are any deadlines to apply. Ms. May responded that there is no deadline to apply and will double check to see if it's on the website. She mentioned that SME recruitment is always in the newsletter but that adding it to the website would be an excellent idea.

Public Comment: None.

11) Proposed Rulemakings Update –

Ms. May reported that the Bureau is currently promulgating two regulations. The first one would establish a retired and inactive license status and it is nearing completion. She provided that the Bureau's initial 45-day comment period closed on December 27, 2021 and an additional 15-day comment period closed on July 28, 2022. She also mentioned that the Bureau anticipates filing the final package with the Office of Administrative Law (OAL) in the next few days and then OAL would have 30 days to approve or disapprove the regulation. Ms. May said the second regulation is to implement AB 465, which requires a cultural competency component pre licensing and continuing education requirements. She provided that the regulation is in its initial comment period until September 20. Ms. May also stated that the proposed text for both regulations can be found on the bureau's website and as the proposed regulations continue to move through

the regulatory process, the bureau will advise the public via the interested parties email list.

Public Comment: None.

12) Future Agenda Items –

Ms. Cuadra noted agenda few items were requested by Ms. Hatch related to AB 1663 and SB 1024 for Mr. Holloway to present at the next meeting. Ms. Cuadra also noted that the December meeting has a standing agenda item to elect a chair and vice chair for 2023.

Ms. Elder asked if the budget office can discuss alternate ways to increase the budget, and provide any other alternatives other than the three options provided by the budget office earlier during the meeting.

Ms. May asked that if any members want to serve as chair or vice chair, or have any questions, to please reach out to her via email.

Public Comment: None.

13) Future Meeting Dates

- Wednesday, December 7, 2022
- Wednesday, March 15, 2023
- Wednesday, June 21, 2023
- Wednesday, September 20, 2023
- Wednesday, December 13, 2023

Committee members did not mention any scheduling conflicts for the future dates and were asked to contact Ms. Cuadra if any conflicts arise.

Public Comment: None.

14) Adjournment – The meeting was adjourned at 11:22 a.m.